



U.S. Department of State Fact Sheet

Intellectual Property Rights Protection: A Glossary

Berne Convention:

The 1886 multinational treaty on copyright protection signed at Berne, Switzerland; officially titled The International Union for the Protection of Literary and Artistic Works. Prior to the 1996 World Intellectual Property Organization (WIPO) Conference, the Berne Convention was revised in 1914, 1928, 1948, 1967, and 1971. The convention grants the moral rights of attribution and integrity, and certain exclusive economic rights to a work's translation, reproduction, performance, and adaptation. The United States became a signatory to the Berne Convention in 1989.

Copyright:

A bundle of exclusive rights conferred by a government on the creator of original literary or artistic works such as books, articles, drawings, photographs, musical compositions, recordings, films, and computer programs. International in scope, copyright grants the creator reproduction, derivation, distribution, performance, and display rights. The Berne Convention mandates that the period of copyright protection cover the life of the author plus 50 years. Current U.S. copyright law is based on the Copyright Act of 1976 and its amendments.

Domain Names:

The names and words that companies designate for their registered Internet Web site addresses, such as the "Forbes" name in the URL <http://www.forbes.com>. Trademark disputes arise when more than one company tries to use the same domain name, or one company appropriates another company's brand or product name for its URL.

Electronic Copyright Management Systems:

Digital technology that controls access to electronic information, in order to protect the intellectual property rights of content owners. A variety of electronic copyright management systems are being developed, including marking technologies -- watermarking, fingerprinting, and data hiding -- that ensure the user's legal authorization, serial copy management systems embedded in digital recorders that determine whether a digital audio tape is copyright protected, and new secure marketing and distribution strategies.

Fair Use:

Codified in the 1976 U.S. Copyright Law and frequently used by scholars, journalists, and librarians, the fair use provision permits the limited use of copyrighted scientific and artistic material to supplement or briefly illustrate oral or written commentary, literary or artistic criticism, or teaching materials. In determining that a use is fair, four factors must be considered: (1) the purpose and character of the use -- whether it is commercial or nonprofit; (2) the nature of the copyrighted material; (3) the amount of the total work used; and (4) the effect of the use upon the potential market -- whether or not the author is deprived of sales.

Intellectual Property:

Creative ideas and expressions of the human mind that possess commercial value and receive the legal protection of a property right. The major legal mechanisms for protecting intellectual property rights are copyrights, patents, and trademarks. Intellectual property rights enable owners to select who may access and use their property, and to protect it from unauthorized use.

1996 WIPO Diplomatic Conference:

The December 1996, 18-day World Intellectual Property Organization summit held in Geneva, whose goal was to revise the Berne Convention. Conference delegates drafted two treaties -- the WIPO Copyright Treaty, which covers literary and artistic works including films and computer software, and the WIPO Performances and Phonograms Treaty, which covers recorded music. Each treaty, if ratified and implemented by the individual member countries, will grant copyright owners protection for distributing their work in digital form. The Performances and Phonograms Treaty is the first global agreement to protect the rights of recording artists and producers against digital piracy of their works.

Patent:

A legal grant issued by a government permitting an inventor to exclude others from making, using, or selling a claimed invention during the patent's term. The TRIPS Agreement mandates that the term for patent applications filed after June 7, 1995, runs 20 years from the filing date. To receive patent protection, an invention must display patentable subject matter (a process, machine, article of manufacture), originality, novelty, nonobviousness, and utility. Current U.S. law is based on the 1952 Patent Code. As a signatory to the 1883 Paris Convention for the Protection of Industrial Property, the United States belongs to the premier international patent treaty organization, the Paris Union.

Patent Cooperation Treaty:

A multilateral treaty among more than 50 nations that is designed to simplify the process of an applicant's seeking a patent on the same invention in more than one nation. Administered by the World Intellectual Property Organization and effective since 1978, the Patent Cooperation Treaty enables an inventor to file a single international application in addition to the main patent application filed in a treaty-member country.

Related Rights:

Also known as neighboring rights. Generally included under the umbrella of copyright in the United States, these are a bundle of exclusive rights provided to performers and producers of a sound recording or audio-visual work.

Trademark:

A name or symbol secured by legal registration that identifies a manufacturer's or trader's product or service and distinguishes it from other products and services. Icons, company names, brand names, and packaging can all have trademark protection. Trademark owners have the right to prevent others from using the same, or a confusingly similar mark, but cannot prevent others from making or selling the same goods under a nonconfusing mark. Current U.S. law is based on the Lanham Act of 1946. This act also incorporates the trademark obligations of the United States under the Paris Convention.

Trademark Law Treaty:

An international treaty that harmonizes and simplifies the requirements and

procedures for filing, registering, and renewing trademarks, and gives service marks the same legal status as trademarks. Adopted at the 1994 World Intellectual Property Organization Diplomatic Conference in Geneva, the treaty has entered into force. Currently, the United States Senate has not yet ratified the Trademark Law Treaty.

TRIPS Agreement:

International rules governing the Trade-Related Aspects of Intellectual Property Rights (TRIPS), formulated at the December 1993 Uruguay Round of GATT. All GATT member-countries agreed to rewrite their national laws to conform to internationally agreed norms for protecting patents, trademarks, copyrights, industrial designs, and trade secrets. The TRIPS agreement also extended protection to such technological areas as pharmaceutical products and computer software, which were previously unprotected in many countries. The general timetable for implementing the TRIPS agreement, which entered into force on July 1, 1995, is one year for industrialized countries; five years for developing countries and countries shifting from centrally planned economies; and 10 years for least-developed countries.

WIPO (World Intellectual Property Organization):

A specialized Geneva-based agency of the United Nations, created in 1967 that promotes international cooperation in intellectual property protection. WIPO administers various "Unions," including the Paris Union and the Berne Union, and other treaty organizations founded on multilateral treaties. The organization also creates model laws for adoption by developing nations. More than 160 countries are WIPO members.